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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES O'DOAN,

Plaintiff(s),

vs.

RENO POLICE OFFICER JOSHUA
SANFORD, RENO POLICE
OFFICER CADE LEAVITT, and
THE CITY OF RENO, a political
subdivision of the State of Nevada; and
JOHN DOES I through X, inclusive

Defendant(s).

<input checked="checked" type="checkbox"/> FILED	<input type="checkbox"/> RECEIVED
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COUNSEL/PARTIES OF RECORD	
SEP 27 2017	
CLERK US DISTRICT COURT DISTRICT OF NEVADA	
BY: _____	DEPUTY _____

Case No. 3:17-cv-00293-LRH-VPC

ORDER
**AMENDMENT TO STIPULATED
EXTENSION OF DISCOVERY
PLAN AND PROPOSED
SCHEDULING ORDER**

FIRST REQUEST

Pursuant to the Court's September 20, 2017 Minute Order denying without prejudice the parties' stipulation, Plaintiff and Defendant hereby submit the following Amendment to Stipulated Extension to the Discovery Plan and Proposed Scheduling Order in the above captioned matter.

This is the first extension to the discovery deadlines in this case sought by the parties. This request is sought because of the complex nature of the claims, defenses, and medical issues that must be explored by the parties during discovery, as explained in detail below.

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2 In compliance with Local Rule 26-4, the parties state the following:

3 **(a) The discovery completed:**

4 The Plaintiff has provided the Defendant with his FRCP 26 initial disclosures on June
5 26, 2017 and four supplements thereto, submitted interrogatories to each of the named
6 Defendants and several witnesses who are employees of the City of Reno, and submitted a
7 request for production to the City of Reno. Responses to the Plaintiff's above described
8 discovery are due in early October. The Plaintiff has disclosed one non-retained expert, who
9 is a Nurse Practitioner who treats the Plaintiff's epilepsy and who treated the Plaintiff shortly
10 after the incident in question.

11 The Defendants made their initial FRCP 26 disclosures on June 20, 2017. Each
12 Defendant has propounded interrogatories to the Plaintiff, the responses to which the
13 Defendants are awaiting. Additionally, Plaintiff has been served with requests for production
14 and requests for admission. All written discovery responses from Plaintiff are due no later
15 than October 2, 2017. Also, Defendants have obtained authorizations for the release of
16 medical, and other, information from Plaintiff, and to the extent possible, have requested
17 such information from third parties. However, until Defendants receive from Plaintiff the
18 identification of other third parties in response to interrogatories, not all such requests can be
19 made.

20 **(b) Discovery that remains to be completed:**

21 The Plaintiff would like to disclose additional experts, one on the issue of the
22 Plaintiff's medical condition, another related to the excessive force and battery claim against
23 Defendant Sanford, and another on aspects of the Americans with Disabilities ("ADA")
24 claim brought against the City of Reno. The Plaintiff would also like to depose several
25 witnesses that saw what happened on the night in question.

26 The Defendant will likely want to depose one or more expert witnesses when they are
27 disclosed by Plaintiff, and depose the Plaintiff, and perhaps medical providers and percipient
28 witnesses to the event at issue, once Defendants have received other information they are
seeking through the above-referenced written discovery and requests to third parties.
Additionally, Plaintiff has recently produced a video of a previously undisclosed event

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2 involving the Plaintiff which occurred subsequent to the incident at issue, upon which
3 Defendants anticipate the need for conducting written discovery and depositions.

4 **(c) The reasons why the deadline was not satisfied or the remaining discovery was**
5 **not completed within the time limits set by the discovery plan:**

6 On May 30, 2017 the Defendants filed a Motion to Dismiss (ECF #10) this matter.
7 On June 9, 2017 the Plaintiff responded to the Motion to Dismiss (ECF #16). On June 15,
8 2017, the Defendant then filed a Reply (ECF # 18). The parties are unsure of the final scope
9 of discovery that will be conducted in this matter because the parties are unsure as to which
10 claims will be permitted to proceed by the Court. The Defendant has yet to obtain all of the
11 medical records it desires, which may be a time consuming and laborious process.

12 The Defendants' formation of written discovery required review of documentary
13 information obtained from third parties and/or not available until Plaintiff provided it under
14 Rule 26. Additionally, between September 13 and 20, Defendants received three
15 supplemental disclosures of witnesses and/or things from Plaintiff, which will require
16 investigation and probably follow-up written discovery. Moreover, Defendants are not in a
17 position to take depositions of certain witnesses and medical providers until discovery
18 response material and/or information which is not yet available is received and reviewed.

19 **(d) A proposed schedule for completing all remaining discovery:**

20 The parties request that all applicable discovery deadlines be extended for a period of
21 90 days from the existing deadlines as indicated below:

22 1. Discovery Cut-Off Date:

23 All discovery must be completed no later than **February 26, 2018**. When producing
24 documents responsive to a discovery request, the documents shall be numbered and the
25 responsive documents shall be specifically referred to by bates-number in the response.

26 2. Amending the Pleadings and Adding Parties:

27 The date for filing motions to amend the pleadings or to add parties shall not be later
28 than ninety (90) days prior to the discovery cut-off date and, therefore, not later than
November 27, 2017. Any party causing additional parties to be joined or brought to this
action shall contemporaneously therewith cause a copy of this Order to be served upon the

new party or parties.

3. Fed. R. Civ. P. 26(a)(2) Disclosures (Experts):⁶⁰₁₈

The last day for disclosures required by Fed. R. Civ. P. 26(a)(2) concerning experts shall be **December 27, 2017**. The last day for disclosures regarding rebuttal experts shall be **January 29, 2018**.

4. Dispositive Motions:⁶⁰₁₈

The parties shall file dispositive motions not more than thirty (30) days after the discovery cut-off date and, therefore, not later than **March 27, 2018**.

5. Pretrial Order:⁶⁰₁₈

If no dispositive motions are filed, and unless otherwise ordered by this Court, the Joint Pretrial Order shall be filed not more than thirty (30) days after the date set for filing dispositive motions and, therefore, not later than **April 26, 2018**. In the event dispositive motions are filed, the last day to file the Joint Pretrial Order shall be suspended until thirty (30) days after the ruling on the dispositive motions.

6. Interim Status Reports:

In accordance with Local Rule 26-3, an Interim Status Report will be filed by the parties with the Court sixty (60) days prior to the discovery cut-off date, and therefore, not later than **December 27, 2017**.

~~7. Extensions or Modifications of the Discovery Plan and Scheduling Order:⁶⁰₁₈~~

~~In accordance with Local Rule 26-4, a stipulation or motion for modification or extension of this discovery plan and scheduling order must be made no later than twenty-one (21) days prior to the discovery cut-off date, and therefore, not later than **February 4, 2018**.~~

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2 IT IS SO STIPULATED.
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5 By: /s/ Mark Hughs Dated: 9/21/2017

6 Mark Hughs, Esq.
7 Reno City Attorney
8 1 East First St.
9 Reno, Nevada 89501
10 *Attorney for the Defendants*

11 By: Luke A. Busby Dated: 9/21/2017

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18 *Attorneys for the Plaintiff*

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There will be no further extensions of this order.
VPC

IT IS SO ORDERED.

ORDER

DATED

September 27, 2017
Almudi P. Pooler
UNITED STATES MAGISTRATE JUDGE